

FCC MAIL SECTION

Before the
Federal Communications Commission
Washington, D.C. 20554

PR Docket No. 92-79

In the Matter of

Amendment of Part 90 of the
Commission's Rules to Eliminate
Separate Licensing of End Users
of Specialized Mobile Radio Systems

NOTICE OF PROPOSED RULE MAKING

Adopted: April 9, 1992;

Released: May 5, 1992

Comments Due: June 11, 1992

Reply Comments Due: June 26, 1992

By the Commission:

I. INTRODUCTION

1. We initiate this proceeding to reexamine our licensing and mobile loading reporting requirements in the Specialized Mobile Radio Service.¹ We propose to (1) eliminate separate licensing requirements imposed on end users of Specialized Mobile Radio systems; (2) authorize end users to operate under the terms and conditions of the authorization issued to Specialized Mobile Radio base station licensees; (3) require Specialized Mobile Radio licensees to assume responsibility for exercising operational control over all mobile and control stations that communicate over their base stations, including assuring compliance by end users with Federal Aviation Administration antenna

¹ On March 9, 1992, the American Mobile Telecommunications Association filed a Petition for Rulemaking ("AMTA Petition") requesting that the Commission modify its requirement that end users of Specialized Mobile Radio systems hold their own licenses for mobile and control stations and that Specialized Mobile Radio system operators be authorized for both the base station facility and the customer units operating on an Specialized Mobile Radio system. We include the AMTA Petition in this docket.

² See generally 47 C.F.R. §§ 90.601-90.657.

³ Trunked systems, which are more common in the Specialized Mobile Radio service and more spectrally efficient than conventional systems, automatically locate available channels for communication. Conventional systems, on the other hand, require users to manually search for an open channel or wait until a particular channel becomes available for use.

⁴ Operators of trunked Specialized Mobile Radio systems are licensed on an exclusive basis and retain control over their frequencies if applicable mobile loading standards are met. 47 C.F.R. § 90.631. Conventional Specialized Mobile Radio systems are authorized on the basis of a minimum of 70 mobile stations per channel and licensees that meet the loading standard are entitled to exclusive use of their channels. 47 C.F.R. § 90.633.

⁵ 47 C.F.R. § 90.655.

requirements and the National Environmental Policy Act; (4) eliminate certain loading reports now required of Specialized Mobile Radio licensees and, instead, require filing loading data only in specified circumstances; (5) calculate mobile loading for trunked Specialized Mobile Radio systems based on the business records of base station licensees; and (6) relax the requirement to modify trunked Specialized Mobile Radio system licenses. We believe that the proposals would reduce significantly unnecessary reporting burdens on industry and administrative costs to the Commission, thereby increasing efficiency and improving the regulatory milieu in which Specialized Mobile Radio system licensees operate.

II. DISCUSSION

2. Specialized Mobile Radio systems are private two-way land mobile radio stations authorized in the 806-821/851-866 MHz and 896-901/935-940 MHz bands.² Specialized Mobile Radio systems may be either trunked or conventional.³ Specialized Mobile Radio base station licensees are authorized a specified number of frequencies, generally on an exclusive basis,⁴ and are permitted to provide a wide array of mobile communications services to customers, called end users, on a commercial basis. Customers of Specialized Mobile Radio systems must be licensed for associated control points, control stations and mobile radio stations⁵ and are authorized to operate only on the systems for which they are licensed.

3. Since the inception of the Specialized Mobile Radio service, we have simplified a number of licensing procedures. In 1982, for example, we adopted a temporary licensing scheme for end users.⁶ In 1986, we eliminated the requirement to file applications for certain end user license modifications.⁷ Then, in 1987, we reduced the amount of information required on end user license applications and removed other filing requirements.⁸ While in the past we have been reluctant to eliminate separate end user licensing primarily because we found specific proposals before us inadequate,⁹ we initiate this proceeding on our own motion to determine whether we should discontinue end user licensing.

⁶ 47 C.F.R. § 90.657.

⁷ Amendment of Part 90 of the Commission's Rules Governing the Application Requirements for End-Users in the 800 MHz Private Land Mobile Band, FCC 86-232, PR Docket No. 85-302 (unpublished decision adopted May 5, 1986); Amendment of Part 90 of the Commission's Rules to Modify Application Requirements for End Users of Specialized Mobile Radio Systems, 104 FCC 2d 902, 905 (1986).

⁸ Revised Procedures for SMR User Applicants, Mimeo No. 3463 (June 3, 1987).

⁹ In 1990, for example, the Private Radio Bureau dismissed a petition suggesting that base station licensees submit certified end user reports to the Commission every six months. Amendment of Part 90 of the Commission's Rules to Modify Application Requirements for End Users of Specialized Mobile Radio Systems, 5 FCC Rcd 2975 (Private Radio Bureau 1990). In 1986, we dismissed a petition suggesting that base station licensees only indicate the maximum number of mobile units that a licensee plans to serve and one suggesting that we reduce the amount of information end users supply on an application. Amendment of Part 90 of the Commission's Rules to Modify Application Requirements for End Users of Specialized Mobile Radio Systems, 104 FCC 2d 902, 903-04, 906-907 (1986). In 1982, we implemented temporary licensing of end users, rather than

A. Proposal #1: Elimination of Separate End User Licensing

4. We propose to eliminate Section 90.655 of our Rules,¹⁰ which requires end users of conventional or trunked Specialized Mobile Radio systems to license their associated control points, control stations, and mobile radio stations.¹¹ Eliminating this requirement would result in enormous savings to the public and the Commission. Annually, we receive approximately 32,500 applications from end users for new licenses and 7,500 applications for renewal. Thus, removing end user licensing would save thousands of end users the time, money and resources required to prepare and file applications, and would reduce substantially our administrative costs in processing those applications and issuing licenses to end users.

5. End users are able to operate on a Specialized Mobile Radio system only if authorized by a Specialized Mobile Radio base station licensee; i.e., end users can access a system only if authorized to do so by the base station licensee. Given that base station licensees can exercise such extreme control over customers, even to the point of denying service, we propose to eliminate separate licensing of end users and to allow end users to operate under the blanket license issued to a Specialized Mobile Radio base station licensee.¹² The base station licensee would be responsible for exercising effective operational control over all mobile stations that it authorizes to use its base station(s). The Specialized Mobile Radio base station licensee also would be responsible for ensuring that end users' facilities comply with the antenna height and lighting restrictions under the Federal Aviation Act (FAA) and our implementing Rules.¹³ In addition, base station licensees would be responsible for determining whether end users' facilities would have a significant impact on the human environment as prescribed by and requiring action under the National Environmental Policy Act (NEPA) and our implementing Rules.¹⁴ Finally, base station licensees would be responsible for ensuring that end users comply with all other applicable FCC Rules and Regulations.¹⁵ We pro-

pose, in this regard, to develop a checklist for base station licensees of Specialized Mobile Radio systems to follow to ensure compliance with antenna and environmental requirements and pertinent Commission Rules and Regulations, including customer eligibility.¹⁶ We specifically seek industry guidance on whether such a checklist would be useful and, if so, what should be included in the checklist. Changing the licensing policies raises several other issues, such as verification of loading on systems. We seek comments on our proposals as follows.

Request for Comment: Proposal #1

6. We request comment on our proposals to (a) eliminate separate end user licensing; (b) allow end users to operate under the license issued to the Specialized Mobile Radio system over which they communicate; (c) impose on the Specialized Mobile Radio licensee responsibility for operational control over all mobiles and control stations that access its system; and (d) require Specialized Mobile Radio licensees to assure compliance with all applicable FCC Rules and Regulations. We also solicit the public's view on (e) the items that should be incorporated in the checklist that we propose to develop to assist Specialized Mobile Radio system base station licensees in ensuring customer compliance with federal law.

B. Proposal #2: Loading Data and Filing Requirements for Licensees of Trunked Specialized Mobile Radio Systems

7. We have used end user licensing to determine mobile loading on a Specialized Mobile Radio system.¹⁷ Mobile loading has been important to ensure that Specialized Mobile Radio licensees are using assigned frequencies efficiently, especially in highly congested areas, and to determine whether to assign a base station licensee additional channels. In this proceeding, we propose to modify only the reporting requirements associated with loading, not the actual loading requirement.

fleet licensing, because temporary licensing provided an opportunity for end users to begin operating quickly. Amendment of Section 90.397 of the Commission's Rules Concerning Mobile Station, Control Point and Control Station Authorization Procedures for 800 MHz Common User Systems, 89 FCC 2d 638, 644-46 (1982).

¹⁰ 47 C.F.R. § 90.655.

¹¹ The Specialized Mobile Radio service is a Private Land Mobile Radio service governed by Section 332(c) of the Communications Act, as amended, 47 U.S.C. § 332(c). Under Section 332(c), a private land mobile radio licensee is a private carrier unless the licensee resells local exchange telephone service for profit. See, e.g., *American Teltronix*, 3 FCC Rcd 5347 (1988), *recon. denied*, 5 FCC Rcd 1955 (1990). Our proposal to remove unnecessary administrative procedures by eliminating licensing of end users of Specialized Mobile Radio systems does not change the private carrier status of Specialized Mobile Radio licensees.

¹² Many Specialized Mobile Radio base station licensees have roaming arrangements with other system licensees, thus giving end users wide-area coverage. An end user normally associated with a specified Specialized Mobile Radio system that has roaming arrangements with other systems would be deemed, when communicating over another base station, to be temporarily associated with and licensed to the different system and for the temporary period, the licensee of the different system would be required to assume the same responsibility for the end user's mobile stations as if the end user's station were licensed to it.

¹³ See 49 U.S.C. §§ 1301-1557 (1988). See also 47 C.F.R. § 17.7.

¹⁴ See 42 U.S.C. §§ 4321-4370 (1988). See also 47 C.F.R. §§ 1.13011319. We note that very few end user facilities require either FAA or NEPA clearance; the Private Radio Bureau's licensing staff estimates that far fewer than one per cent of end user applications involve either FAA or NEPA issues.

¹⁵ For example, Specialized Mobile Radio licensees would be responsible for compliance with Section 90.177 of our Rules, which concerns protection of certain radio receiving locations. 47 C.F.R. § 90.177.

¹⁶ Base station licensees of Specialized Mobile Radio systems are entitled to serve individuals, Federal Government agencies, and any entity eligible to be licensed in the Public Safety, Special Emergency, Industrial or Land Transportation Radio Services. 47 C.F.R. § 90.603(c). Specialized Mobile Radio base station licensees, however, are not entitled to serve any entity that would not itself be eligible for licensing under Part 90 of our Rules, which includes foreign governments or representatives of foreign governments. 47 U.S.C. § 310(a). The proposed checklist would assist base station licensees in ensuring lawful customer eligibility.

¹⁷ When applying for licenses, end users identify on Form 574 the number of mobiles that they intend to use in conjunction with a licensed Specialized Mobile Radio system. We create mobile loading cards for each licensed Specialized Mobile Radio system, based on that information, to determine total end user loading of a system.

8. We propose to eliminate our current Rules that require existing base station licensees to submit mobile loading reports at particular intervals and, instead, propose to require loading data when a licensee applies for an authorization for which loading is a prerequisite. Specifically, we propose to eliminate the requirement under Section 90.651(a)¹⁸ of our Rules that base station licensees of trunked Specialized Mobile Radio systems file annually and at renewal, reports indicating the number of mobiles loaded on their systems,¹⁹ and propose instead that they submit loading data when:

(a) an existing licensee applies for additional channels to expand an existing system or to construct a new system within 40 miles of its existing system;²⁰ or,

(b) an existing licensee of a trunked system in a waiting list area applies for renewal of a system licensed before June 1, 1993.²¹

9. We propose that loading data be comprised of the average number of mobiles and control stations operating on a licensee's system on the first business day of the month for the six month period immediately preceding the filing of an application. The average would be calculated according to the licensee's business records during the six month period and reported on the appropriate application form. Business records could constitute invoices, customer service agreements, customer lists or any other type of record kept in the ordinary course of business. Although licensees would not be required to submit business records with their applications, at a later date they could be required to provide records to substantiate loading figures. In addition, should we find that a licensee falsely certified loading, we could impose appropriate sanctions and could recommend prosecution under Section 1001 of Title 18 of the United States Code.²²

¹⁸ 47 C.F.R. § 90.651(a).

¹⁹ 47 C.F.R. § 90.651(a). Section 90.651(a) requires "[l]icensees offering [Specialized Mobile Radio] service... must report the number of mobile units being served annually on the anniversary of their authorization date and at the time of filing applications for renewal of license. They must also report all stations which operate on more than one Specialized Mobile Radio system. These reports must be filed with the Commission[]..." *Id.*

We also would have proposed in this proceeding to eliminate the corollary Rule for conventional systems, Section 90.651(c), 47 C.F.R. § 90.651(c), which requires licensees of conventional systems to report within eight months of the grant of a license the number of mobiles loaded, but we already have proposed to eliminate that Rule in a related proceeding. Amendment of Part 90 of the Commission's Rules Pertaining to End User Information, PR Docket No. 92-78, FCC No. 171 (adopted April 9, 1992) (*End User Information*).

²⁰ 47 C.F.R. § 90.627(b)(2) (existing trunked system licensee applying for additional trunked channels); 47 C.F.R. § 90.623(d) (existing trunked system licensee applying for additional conventional channels); 47 C.F.R. § 90.631(c) (existing trunked system licensee applying for additional channels); 47 C.F.R. § 90.611(d) (existing trunked system licensee applying for new channels in a waiting list area).

²¹ 47 C.F.R. § 90.631(b). We are phasing out our program of cancelling licenses and recovering channels of insufficiently loaded trunked systems; only systems authorized before June 1,

Request for Comment: Proposal #2

10. We request comment on our proposals (a) to eliminate loading reporting requirements under Section 90.651(a); and (b) to require licensees of trunked Specialized Mobile Radio systems to submit loading data to acquire additional channels or to renew licenses of trunked systems licensed in waiting list areas before June 1, 1993 using the average number of mobile and control stations in the time period according to the prescribed formula. We particularly are interested in industry opinion on the method and type of business records that licensees should use to determine loading.

C. Proposal #3: Relaxation of Requirement for Trunked Specialized Mobile Radio Licensees to Modify Licenses

11. We propose to amend the requirement under Section 90.135(a)(5) that licensees of trunked Specialized Mobile Radio systems modify their licenses when there is a change in the location or number of fixed, control or mobile transmitters.²³ It would be very burdensome for base station licensees²⁴ to submit modifications every time the number of mobiles on the licensee's system changed. In addition, there simply would be no reason for us to know on a daily basis whether the number of mobiles on a trunked Specialized Mobile Radio system has changed: we need to know loading only to determine whether a licensee has met the 70-mobile loading standard to qualify for particular authorizations. Therefore, we propose to exempt licensees of trunked Specialized Mobile Radio systems from the Section 90.135(a)(5) requirement to modify licenses for changes in the number or location of control or mobile transmitters.

12. The situation is different, however, for conventional Specialized Mobile Radio systems. Because conventional systems are available for shared use, it is necessary for us to know how many mobiles are operating on a channel

1993 will continue to be subject to the five-year loading requirement. Amendment of Part 90, Subparts M and S, of the Commission's Rules, PR Docket No. 86-404, 3 FCC Rcd 1838, *aff'd*, 4 FCC Rcd 356 (1988).

²² 18 U.S.C. § 1001 (1988). Section 1001 provides:

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

²³ 18 U.S.C. § 1001 (1988).

²⁴ 47 C.F.R. § 90.135(a)(5). In *End User Information*, *supra* note 19, we are proposing to amend this Rule to reduce the frequency with which modifications must be filed.

²⁵ Currently, end users bear the responsibility for complying with this Rule. Because our new proposal would eliminate end user licensing and any obligation for end users to submit reports, if we were to continue to apply Section 90.135(a)(5) to Specialized Mobile Radio systems, base station licensees, rather than end users, would have to be responsible for compliance with the Rule. We see no reason to impose such a requirement on licensees of trunked Specialized Mobile Radio systems.

before authorizing additional mobiles on the same channel. For this reason, we would continue to require licensees of conventional Specialized Mobile Radio systems to file applications to modify their licenses under Section 90.135(a)(5). In addition, both trunked and conventional licensees would continue to be subject to the Section 90.135(a)(5) requirement to modify licenses for a change in the location or number of base stations.

Request for Comment: Proposal #3

13. We request comment on our proposal to exempt licensees of trunked Specialized Mobile Radio systems from the requirement under Section 90.135(a)(5)²⁵ to modify licenses for changes in the number or location of control or mobile transmitters.

III. CONCLUSION

14. We propose to eliminate separate licensing of Specialized Mobile Radio end users and, instead, to license base station licensees of trunked and conventional Specialized Mobile Radio systems for all transmitters operating on a system. We also propose to require Specialized Mobile Radio base station licensees to be responsible for assuring that end user facilities comply with applicable Federal Rules and Regulations. In addition, we propose to require base station licensees of trunked Specialized Mobile Radio systems to submit loading data to acquire additional channels or to renew trunked systems licensed before June 1, 1993. Finally, we propose to exempt licensees of trunked Specialized Mobile Radio systems from the requirement to modify licenses based on a change in the location or number of control or mobile transmitters. For regulatory and enforcement purposes, operation of end user equipment would continue to be covered by an FCC license, but by a license issued to a Specialized Mobile Radio base station licensee, rather than to an end user. By simplifying licensing of Specialized Mobile Radio systems, our proposals would reduce substantially end user costs, conserve Commission resources, and promote efficiency.

IV. INITIAL REGULATORY FLEXIBILITY ANALYSIS

15. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals contained in this *Notice of Proposed Rulemaking (Notice)*. We request written public comment on the IRFA, which follows. Comments must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis and must be filed by the deadlines provided in paragraph 26. The Secretary shall send a copy of this *Notice*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. §§ 601-612 (1981).

A. Reason for Action

16. The Commission proposes to discontinue separate licensing of Specialized Mobile Radio system end users in order to eliminate a substantial burden on the public, to

reduce administrative costs and to improve government efficiency. We also propose to require Specialized Mobile Radio base station licensees to be responsible for compliance with applicable Federal Rules and to require licensees of trunked Specialized Mobile Radio systems to submit loading data to the Commission to qualify for authorizations of additional channels and for renewal of systems in waiting list areas authorized before June 1, 1993.

B. Objectives

17. We seek to reexamine our licensing and mobile loading reporting requirements in the Specialized Mobile Radio Service in order to reduce unnecessary reporting burdens on industry and administrative costs to the Commission and thereby increase efficiency in the Specialized Mobile Radio industry and within the Commission.

C. Legal Basis

18. The proposed action is authorized under Sections 4(1), 303(g), 303(r), and 331(a) of the Act, 47 U.S.C. §§ 154(i), 303(g), 303(r), and 332(a) (1988).

D. Reporting, Recordkeeping and Other Compliance Requirements

19. End users of Specialized Mobile Radio systems no longer would be required to file applications or obtain licenses from the Commission. Base station licensees of trunked and conventional Specialized Mobile Radio systems would be responsible for assuring that end users comply with applicable Federal requirements. Base station licensees of trunked Specialized Mobile Radio systems would be required to maintain records of the number of mobiles loaded on their systems and to submit that data to the Commission when applying for authorizations for which channel loading is a prerequisite. In addition, licensees of trunked Specialized Mobile Radio systems would be exempt from the current requirement to file applications to modify their licenses based on a change in the location or number of control or mobile transmitters.

E. Federal Rules Which Overlap, Duplicate or Conflict with These Rules

20. None.

F. Description, Potential Impact, and Number of Small Entities Involved

21. The proposals would discontinue end user licensing, which would eliminate the time and expense currently required by end users and the Commission to process applications and license end users. Under our Rules, base station licensees of Specialized Mobile Radio systems currently are required to demonstrate loading and they often assist end users in preparing end user applications. Our proposal would require base station licensees of trunked Specialized Mobile Radio systems to submit loading data to qualify for additional channels or to renew licenses of trunked systems authorized before June 1, 1993, but would exempt them from the requirement to file applications to modify their licenses based on a change in the location or number of control or mobile transmitters.

²⁵ 47 C.F.R. § 90.135(a)(5).

G. Any Significant Alternatives Minimizing the Impact on Small Entities Consistent with the Stated Objectives

22. None.

V. PAPERWORK REDUCTION ACT STATEMENT

23. The proposals contained in this *Notice* have been analyzed with respect to the Paperwork Reduction Act of 1980 and found both to decrease the burden imposed on the public by eliminating end user applications and modify the remaining burden by requiring supplemental information concerning end users from licensees of Specialized Mobile Radio systems. Whether the proposal is viewed as a reduction or as a modification of existing collection burdens, it is subject to approval by the Office of Management and Budget as prescribed by the Act.

VI. PROCEDURAL MATTERS

24. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* presentations are permitted except during the Sunshine Agenda period. See generally 47 C.F.R. § 1.1206(a). The Sunshine Agenda period commences with the release of a public notice that a matter has been placed on the Sunshine Agenda and terminates when the Commission (1) releases the text of a decision or order in the matter; (2) issues a public notice stating that the matter has been deleted from the Sunshine Agenda; or (3) issues a public notice stating that the matter has been returned to the staff for further consideration, whichever occurs first. 47 C.F.R. § 1.1202(f). During the Sunshine Agenda period, no presentations, *ex parte* or otherwise, are permitted unless specifically requested by Commission or staff for the clarification or adduction of evidence or the resolution of issues in the proceeding. 47 C.F.R. § 1.1203.

25. An *ex parte* presentation is any presentation directed to the merits or outcome of the proceeding made to decisionmaking personnel which (1) if written, is not served on the parties to the proceeding, or (2), if oral, is made without advance notice to the parties to the proceeding and without opportunity for them to be present. 47 C.F.R. § 1.1202(b). Any person who submits a written *ex parte* presentation must provide on the same day it is submitted a copy of same to the Commission's Secretary for inclusion in the public record. Any person who makes an oral *ex parte* presentation that presents data or arguments not already reflected in that person's previously-filed written comments, memoranda, or filings in the proceeding must provide on the day of the oral presentation a written memorandum to the Secretary (with a copy to the Commissioner or staff member involved) that summarizes the data and arguments. Each *ex parte* presentation must state on its face that the Secretary has been served and provide the docket number of the proceeding to which it relates. 47 C.F.R. § 1.1206.

26. Authority to issue this *Notice* is contained in Sections 4(i) and 303(r) of the Act, 47 U.S.C. §§ 154 (i) and 303(r). Interested persons may file comments on or before **June 11, 1992** and reply comments on or before **June 26, 1992**. We will consider all relevant and timely comments before taking final action in this proceeding. In reaching our decision, we also may consider information and ideas

not contained in the comments, provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

27. In accordance with the provisions of Section 1.419 of the Commission's Rules, 47 C.F.R. § 1.419, formal participants shall file an original and five copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters at 1919 M Street, N.W., Washington, D.C.

Contact Person

28. For further information regarding this *Notice*, contact Linda L. Haller, Private Radio Bureau, Policy and Planning Branch, (202) 632-6497.

FEDERAL COMMUNICATIONS COMMISSION

Donna R. Searcy

Donna R. Searcy
Secretary

APPENDIX

Title 47 of the Code of Federal Regulations, Part 90, is proposed to be amended as follows:

1. The authority citation for Part 90 continues to read as follows:

Authority: Sections 4, 303, 331, 48 Statutes, as amended, 1066, 1082; 47 U.S.C. 154, 303, and 332, unless otherwise noted.

2. 47 C.F.R. § 90.651(a) is removed and reserved.

3. 47 C.F.R. § 90.655 is removed.

4. A new section 90.656 is added to read as follows:

§ 90.656 Responsibilities of base station licensees of Specialized Mobile Radio systems.

(a) The licensees of base stations that provide Specialized Mobile Radio service on a commercial basis for the use of individuals, Federal government agencies, or persons eligible for licensing under either subparts B, C, D, or E of this part shall be responsible for exercising effective operational control over all mobile stations that communicate with the base station. The base station licensee shall be responsible for assuring that its system is operated in compliance with all applicable rules and regulations.

(b) Customers that operate mobile units on a particular Specialized Mobile Radio system shall be licensed to that system. A customer that operates temporarily on more than one system will be deemed, when communicating with the other system, to be temporarily licensed to the other system

and for that temporary period, the licensee of the other system shall assume the same licensee responsibility for the customer's mobile station(s) as if the customer's stations were licensed to that other system.

(c) Licensees of trunked and conventional Specialized Mobile Radio systems are not exempt from the requirement under § 90.135(a)(5) to file an application for modification of license when there is a change in the location or number of base stations.

5. A new section 90.658 is added to read as follows:

§ 90.658 Loading data required for base station licensees of trunked Specialized Mobile Radio systems to acquire additional channels or to renew trunked systems licensed before June 1, 1993.

(a) A base station licensee of a trunked Specialized Mobile Radio system that applies for additional channels to expand an existing system or to construct a new system within 40 miles of its existing system, or a base station licensee of a trunked system in a waiting list area that applies for renewal of a system licensed before June 1, 1993 must identify on the appropriate application form the number of mobiles and control stations loaded on its system as calculated in paragraph (b) of this section.

(b) The number described in paragraph (a) of this section must be calculated according to the average number of mobiles and control stations operating on a licensee's system on the first business day of each of the six months immediately preceding the filing of an application and must be based on the licensee's business records for that period.

(c) Business records may constitute invoices, customer service agreements, customer lists or any other type of record kept in the ordinary course of business.

(d) The FCC will use the loading data required by this section to determine whether the licensee's existing system has a sufficient number of mobiles as required by our Rules to qualify for additional channels or for renewal of trunked systems licensed before June 1, 1993.

6. A new section 90.659 is added to read as follows:

§ 90.659 Change in number or location of base stations or transmitters.

(a) Licensees of trunked Specialized Mobile Radio systems are exempt from the requirement under § 90.135(a)(5) to file an application for modification of license when there is a change in the location or number of fixed, control, or mobile transmitters from that authorized, including area of mobile operations.

(b) Licensees of conventional Specialized Mobile Radio channels are not exempt from the requirement under § 90.135(a)(5) to file an application for modification of license when there is a change in the location or number of fixed, control, or mobile transmitters from that authorized, including area of mobile operations.